

Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Norman Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Norman Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law and municipal and county rules and the requirements of any employment agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be addressed by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Watch Commander is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Internal Affairs Unit, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Internal Affairs Unit, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) The Department may be the recipient of tort claims and lawsuits.

1010.3.3 CORRECTIVE ACTION

Corrective action is not considered discipline. Any supervisor, including the Chief of Police, may impose corrective action if it is determined that an act or omission resulted from a deficiency in training, or from a failure to respond as expected to policies, laws, orders or instruction.

Corrective action consists of any or all of the following:

- (a) Verbal counseling
- (b) Written counseling
- (c) Remedial training

Corrective action documentation will not be placed in satellite or City individual personnel files as an individual item. It should, however, be recorded on counseling forms and included in the Professional Standards Reporting System when associated with a complaint.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1010.4.2 ACCEPTANCE

All complaints will be courteously acknowledged by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon

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contact with the complainant, shall initiate a report using the Professional Standards Reporting System.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1010.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented in the Professional Standards Reporting System. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries are logged by the Professional Standards Reporting system which also records and tracks complaints. The system includes a description of the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the system and send an audit report to the Chief of Police or the authorized designee.

1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.6.1 SUPERVISOR RESPONSIBILITIES

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, it is entered into the Professional Standards Reporting System.
 - 1. The supervisor receiving the complaint will take appropriate action and document the results in the Professional Standards Reporting System.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution in the Professional Standards Reporting System.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Watch Commander and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Human Resources Department and the Watch Commander for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

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- (f) Forwarding unresolved personnel complaints to the Watch Commander, who will determine the most appropriate course for follow-up.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Collecting preliminary information of a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

The Internal Affairs Unit is responsible for the review and oversight of all complaints. While a complaint is under investigation the supervisor, or the assigned member of the Internal Affairs Unit are delegated the authority of the Chief of Police in matters pertaining to the investigation. All employees will respond to requests from the investigator just as they would respond to request from the Chief of Police.

Whether conducted by a supervisor or a member of the Internal Affairs Unit, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Norman Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.
 - 1. Prior to any interview the employee shall receive a confidential written notification of the complaint. This notification will include a copy of the original complaint or a summary adequately listing the relevant facts and a reference to the employee's rights and responsibilities during the investigation.
- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing

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to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

- (g) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview should be provided to the employee prior to any subsequent interview.
- (h) All employees subjected to interviews that could result in discipline have the right to have one (1) uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (i) All employees shall provide complete and truthful responses to questions posed during interviews.
- (j) Employees may be compelled to submit to a polygraph examination, and any refusal to submit to such examination may be mentioned in any investigation, where:
 - 1. Questions on the examination are specifically and narrowly tailored to the performance of the employee; and
 - 2. If there is someone who relates contradictory information, he/she must agree to submit to a polygraph before the subject employee can be compelled to submit to the examination.

1010.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding final disposition.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall resolve any additional allegations either formally or informally as previously described in this policy.

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1010.6.4 DISPOSITIONS

At the completion of a formal or informal investigation, the investigator will recommend one of the following dispositions:

- (a) **Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.
- (b) **Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.
- (c) **Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.
- (d) **Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.
- (e) **Exceptional** - When the investigation discloses extenuating circumstances that are not applicable to another disposition

1010.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within thirty (30) days from the date of discovery by an individual authorized to initiate an investigation unless an exception is granted by the Chief of Police. If the investigation is not completed during this period, a written status report and request for extension shall be filed with the Chief of Police every thirty (30) days until the completion of the investigation. The subject employee shall also be notified, in writing, of any investigation extensions.

1010.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be accessed any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1010.8 ADMINISTRATIVE ASSIGNMENT

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative assignment. Any employee placed on administrative assignment:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

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- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1010.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from a administrative investigation. Generally, an investigation involving potential criminal conduct should be completed prior to conducting an administrative investigation. Parts of a corresponding administrative investigation, however, may parallel elements of a criminal investigation.

The Chief of Police, where practicable through the chain of command, shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Norman Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction.

Upon the completion of a criminal investigation, the information may be included in an independent administrative investigation. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report shall be forwarded directly to the Chief of Police. After reviewing the investigation, the Chief of Police may exercise one of the following options:

- (a) Determine that further investigation is required,
- (b) Convene a Board of Inquiry to review the investigation and recommend a disposition, or
- (c) Assign a disposition and close the investigation.

Where the Chief of Police finds that an investigation is either sustained, or exceptional, the Chief of Police may request that each level of the subject employee's command review the report and include their comments in writing regarding the classification of the disposition and (where appropriate) requesting recommendations for disciplinary or corrective action.

Once the Chief of Police determines a final disposition, the subject employee and the complainant will be notified, in writing, of the disposition.

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1010.10.1 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary or corrective action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file for further review.

Once the Chief of Police is satisfied that no further review is required, the Chief of Police shall determine the amount of discipline, if any, that should be imposed.

1010.10.2 DISCIPLINE

Only the Chief of Police may administer disciplinary action to subordinates. Just cause for discipline includes, but is not limited to, any act or omission which interferes with the orderly and efficient administration of the City, and off-duty behavior which adversely affects the City as an employer. Multiple levels of discipline may be imposed for a single incident, and higher levels of discipline may be imposed without first executing a lower level.

While specific disciplinary procedures may be outlined in an applicable collective bargaining agreement or the City Personnel Manual, generally, progressive discipline from least to most serious level is:

(a) Discipline without Charge and Specification:

1. Oral Repremand: Documented and filed with the employee's personnel file and in accordance with applicable collective bargaining agreement.
2. Letter of Reprimand: Letters of Reprimand documenting disciplinary action shall be removed, upon written request of the employee, from all of that employee's personnel files when a period of two (2) years expires without that employee receiving any further disciplinary actions.

(b) Discipline with Charge and Specification:

- (a) Probation: Not to exceed one (1) year and in accordance with applicable collective bargaining agreement.
- (b) Suspension without pay: Not to exceed 30 (thirty) days. Employees suspended without pay will be issued a memorandum that outlines the specific terms of the suspension which may include suspension of police powers and recovery of police issued equipment and commission credentials.
- (c) Demotion: Reduction to a lower rank or pay grade.
- (d) Termination: Removal from employment with the City.

1010.10.3 STATEMENT OF CHARGE AND SPECIFICATION

The Chief of Police shall provide the subject employee with a Statement of Charge and Specification to include:

- (a) The particular rule(s) alleged to have been violated.
- (b) The elements of the rule(s) alleged to have been violated.
- (c) The disposition of the issue or complaint.

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- (d) The working status of the subject employee.
- (e) The employee's right to a pre-disciplinary conference.

1010.10.4 NOTICE OF INTENT TO DISCIPLINE

Where disciplinary action is intended, the Chief of Police shall provide the member with a written notice of the intent to discipline and also include the following:

- (a) Access to all of the materials considered resulting in the decision.
- (b) An opportunity to respond orally (in a pre-disciplinary conference) or in writing to the Chief of Police within five (5) days of receiving the notice.
 - 1. The Chief of Police will determine the date and time of any pre-disciplinary conference.
 - 2. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
 - 3. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

1010.11 PRE-DISCIPLINARY CONFERENCE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of evidence, testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1010.11.1 COMPLETION OF THE PRE-DISCIPLINARY PROCESS

Upon completion of the pre-disciplinary process, the Chief of Police may:

- (a) Determine that further investigation is required.
- (b) Convene a Board of Inquiry.
- (c) Administer discipline.

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1010.12 NOTICE OF DISCIPLINE

The Chief of Police shall administer discipline by issuing a memorandum titled "Notice of Discipline" to the employee. The notice will include:

- (a) The reason(s) for the disciplinary action.
- (b) The disciplinary action to be administered.
- (c) The employee's right to appeal as outlined in the appropriate collective bargaining agreement.

1010.12.1 SERVICE OF NOTICE OF DISCIPLINE

The Chief of Police shall cause any Statement of Charge and Specification, Notice of Intent to Discipline, Board of Inquiry notices, and Notice of Discipline memoranda to be delivered to the subject employee. Where possible, service shall be made while the employee is on-duty. Where on-duty service is not feasible, the employee may be served at their residence or other appropriate place.

1010.12.2 RECORDS OF DISCIPLINE

In all cases where a memorandum is issued regarding disciplinary action, the original shall be forwarded to the subject employee. The original and copies shall be handed directly to recipients or forwarded in envelopes or other means that will reasonably provide confidentiality. Copies shall be disseminated as follows (or as otherwise directed by the Chief of Police):

- (a) Bureau Commander of the subject employee
- (b) Division Commander of the subject employee
- (c) Employee's first line supervisor
- (d) Department satellite personnel file
- (e) City personnel file
- (f) Professional Standards Reporting System

1010.13 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1010.14 POST-DISCIPLINE APPEAL RIGHTS

A subject employee has the right to appeal using the procedures established by applicable collective bargaining agreements and/or personnel rules.

1010.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

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1010.16 NOTIFICATION TO COUNCIL OF LAW ENFORCEMENT EDUCATION AND TRAINING (CLEET)

The Chief of Police or the authorized designee shall notify CLEET whenever any officer resigns or is terminated as a result of any disciplinary action. The notification shall be made within 10 days of the resignation or termination (70 O.S. § 3311(H)).

The Chief of Police or the authorized designee shall also notify CLEET whenever any officer resigns or is terminated while under investigation that may result in disciplinary action. The notification shall be made within 30 days of the resignation or termination (70 O.S. § 3311(J)(8)).